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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/744,297	01/23/2001	Helmut Goeldner	1997/49442	4017

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EXAMINER

CHORBAJI, MONZER R

ART UNIT	PAPER NUMBER
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1744

DATE MAILED: 04/28/2003

16

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/744,297

Applicant(s)

GOELDNER, HELMUT

Examiner

MONZER R CHORBAJI

Art Unit

1744

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 04 February 2003.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 23,24,26-33 and 35-47 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 23,24,26-33,35-43 and 45-47 is/are rejected.
- 7) ☒ Claim(s) 44 is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☒ The proposed drawing correction filed on 04 February 2003 is: a) ☒ approved b) ☐ disapproved by the Examiner.
- If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. §§ 119 and 120

- 13) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some * c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
- a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s) _____
- 4) ☐ Interview Summary (PTO-413) Paper No(s). _____
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other:

DETAILED ACTION

This final office action is in response to the amendment received on 02/04/2003

Drawings

1. The corrected or substitute drawings were received on 02/04/2003. These proposed drawings are accepted by the examiner.

Claim Rejections - 35 USC § 112

2. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

3. Claim 33 is rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

In claim 33, line 14; applicant uses the phrase "and close off the input unit and the discharge element". Such a phrase is a method language in an apparatus claim, which does not add any limitation. The meaning of such a phrase is not clear. It would be clearer if the applicant use suitable apparatus language. Clarification and grammatical correction of the phrase are needed to understand the meaning of claim 33.

Claim Rejections - 35 USC § 103

4. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

5. The factual inquiries set forth in *Graham v. John Deere Co.*, 383 U.S. 1, 148 USPQ 459 (1966), that are applied for establishing a background for determining obviousness under 35 U.S.C. 103(a) are summarized as follows:

1. Determining the scope and contents of the prior art.
2. Ascertaining the differences between the prior art and the claims at issue.
3. Resolving the level of ordinary skill in the pertinent art.
4. Considering objective evidence present in the application indicating obviousness or nonobviousness.

6. Claims 23-24, 26-28, 31-33, 35-36, 40-43, and 45-47 are rejected under 35 U.S.C. 103(a) as being unpatentable over Goldner et al (U.S.P.N. 5,270,000) in view of Davis (U.S.P.N. 5,277,136).

With respect to claims 23 and 33; Goldner et al teaches the following: a method and an apparatus for treating contaminated material (col.1, lines 5-6), an input unit (figure 1, 3), a conveyor system (figure 1, 24 and 16), a treatment chamber, which slants upward from a lower inlet (figure 1, 16), treatment chamber includes a first treatment zone (figure 1, 7 and 18) and a second treatment zone (figure 1, the unlabeled internal space of 16), an upper discharge end (figure 1, 27), contaminated material is moistened (figure 1, 19) in a liquid reservoir (since the treatment chamber 16 is slanted, it will inherently contains a reservoir in its lower end from the accumulating liquid) in first treatment zone (first heating zone) which is adjacent the lower end of the chamber by liquid present in the material (contaminated material inherently contains liquid) or water added (figure 1, 20) from the outside the treatment chamber (figure 1, 19), liquid in reservoir having a temperature below the boiling point of water by having heating means (col.10, lines 33-36. This would inherently increase the temperature of

liquid sprayed by 19), and in the second treatment zone which extends from the first treatment zone to the upper end of the chamber, the material is heated to a temperature above the boiling point of water (col.1, lines 59-67) to create steam pressure (col.2, lines 46-51). However, Goldner et al fails to disclose means for closing off the input region and the discharge region of the treatment chamber. Davis teaches closing off the input (18) and the discharge (26) regions of the treatment chamber (22). It would have been obvious to one having ordinary skill in the art to modify the method and apparatus of Goldner et al to include closing off means on both the input and the discharge regions in order to prevent bacteria in the air inside the system from escaping into the environment other than through the dual filtration system (Davis, col.2, lines 47-60).

With respect to claim 24; Goldner et al teaches that the contaminated material is contaminated with infectious microorganisms (col.1, line 6).

With respect to claims 26-28, and 35; Goldner et al teaches the following: the steam pressure in the second zone is generated by evaporation of the inherent moisture (col.2, line 46) or by evaporation of liquid water added to the contaminated material from outside the treatment chamber (col.2, line 46 and figure 1, 19 and 20), and the steam pressure in the second zone is generated (heating of the contaminated material by steam, col.10, line 13) by introducing steam into the chamber (col.10, lines 9-14).

With respect to claim 36, Goldner et al introduces water into the first heating zone (figure 1, 20 and 19).

With respect to claims 31-32, 43, and 46; Goldner et al teaches the following: contaminated material is introduced in portions (figure 1, 13) into the treatment chamber

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(figure 1, 3), portions introduced and discharged from the treatment chamber through locks (figure 1, 4 and figure 5, 64).

With respect to claims 40-42, and 45; Goldner et al teaches the following: heating means provided in an inner wall of chamber (figure 5, 65), heating means is provided in conveyor system (figure 1, 25), means for controlled introduction of microwave energy into treatment chamber (figure 6, 16 and 25), a shredder in input unit (figure 1, 6 and 15).

With respect to claim 47; Goldner et al teaches a plurality of treating apparatuses (figure 1, 18, 16, 17, 44, and 50) arranged parallel. However, having such a plurality of treating apparatuses is within the purview of a person skilled in the art so that the capacity of treating contaminated material can be increased.

7. Claims 29-30 and 37-39 are rejected under 35 U.S.C. 103(a) as being unpatentable over Goldner et al (U.S.P.N. 5,270,000) in view of Davis (U.S.P.N. 5,277,136) and further in view of Kline et al (U.S.P.N. 5,425,925).

With respect to claims 29-30 and 37-39, both Goldner et al and Davis do not disclose the following: a mechanism to control the excess water build up which inherently results from having an inclined chamber, recycling means of the water, and a collection vessel.

With respect to claims 29-30 and 37-39; Kline et al, which is in the art of treating contaminated material (col.1, lines 13-19) by having an inclined chamber (figure 2, 76) teaches the following: the first treatment zone includes a liquid reservoir (figure 1, 104), which is regulated by a weir or an overflow (figure 1, 108); liquid discharged from the

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weir or an overflow is recycled back to the liquid reservoir (figure 1, 54 and 46); a collection vessel (figure 1, 106, 54, 162, and 46), and where the weir or an overflow (figure 1, 108), the collection vessel (figure 1, 106), and the return line (figure 1, 54) are maintained at the same pressure as the treatment chamber (figure 1, 46). Since the chamber (figure 1, 46) is opened at its lower end (figure 1, 88 and 89) to the liquid reservoir, thus the above-mentioned structures are at the same pressure. It would have been obvious to one having ordinary skill in the art to modify the method and apparatus of Goldner et al in order to design a tank in the lower end of the chamber to enable the collection of fines for periodic removal (Kline et al, col.11, lines 21-23).

Allowable Subject Matter

8. Claim 44 is objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims. This objection to claim 44 is due to the Declaration under 37 C.F.R. 1.132 received on 02/04/2003.

Response to Arguments

9. Applicant's arguments with respect to claims 23 and 33 have been considered but are moot in view of the new ground(s) of rejection.

On page 7 of the response, applicant argues, "Namely, Kline fails to disclose any method or means whereby an input unit and a discharge element of a contaminated material treatment system can be closed off". The Kline reference is used only for the water regulation mechanism and not for any other reason. The Davis reference was

applied to show that the use of closing means for both the inlet and the discharge regions is conventional knowledge in the art of treating infectious material.

On page 7 of the response, applicant argues, "Like Goldner, Kline is not capable of generating steam at a sufficient level to properly disinfect the contaminated material". Again, the Kline reference is used only for the water regulation mechanism and not for any other reason. However, steam is generated in the Goldner reference (col.2, lines 46-51)

Conclusion

10. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

11. A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than **SIX MONTHS** from the date of this final action.

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12. Any inquiry concerning this communication or earlier communications from the examiner should be directed to MONZER R CHORBAJI whose telephone number is (703) 305-3605. The examiner can normally be reached on M-F 8:30-5:00.
13. If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, ROBERT J WARDEN can be reached on (703) 308-2920. The fax phone numbers for the organization where this application or proceeding is assigned are (703) 305-3599 for regular communications and (703) 305-7719 for After Final communications.
14. Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703) 308-0661.

Monzer R. Chorbaji *MRC*
Patent Examiner
AU 1744
April 17, 2003

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